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Attorney Docket No. 8285/469

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
 Ahmad Ansari et al.)
Serial No.: 09/842,363) Examiner: Raman, Usha
Filing Date: April 25, 2001) Group Art Unit No.: 2623
For: Method and System for)
 Transferring Content to a)
 Networked Unit)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants request review of the final rejection in the above-identified application.

No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons stated on the attached sheets. No more than five (5) pages are provided.

REMARKS

I. Introduction

Claims 1 and 3-24 are pending in the application. In the Office Action dated Nov. 30, 2006, the Examiner rejected claims 1, 3, 4, 6-13, 15-19, and 21-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,496,980 ("Tillman") in view of U.S. Pat. No. 7,020,195 ("McMahon"). Further, claims 5, 14, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tillman in view of McMahon and U.S. Pat. No. 5,790,935 ("Payton"). Applicants request review of the final rejection.

II It Is Improper to Combine Tillman and McMahon

Independent claims 1, 11, 18, and 21 have been rejection over Tillman in view of McMahon. It is improper to combine Tillman and McMahon because such a combination would alter the principle operation of Tillman. See MPEP §§ 2143.01 and 2145. Tillman is directed to a method of providing replay-on-demand for **streaming digital media**. Generally, Tillman teaches a system where a user viewing a streamed base layer of media content may select to replay a portion of the media. In response to a selection to replay a portion of the media, an enhanced layer of the portion of the media to be replayed is streamed to the user, combined with the original base layer, and displayed to the user. In Tillman, media is always **streamed** to the user in real time and is not downloaded to the user.

Each of the independent claims recites **downloading** content to a subscriber unit, subscriber terminal, a set-top box, or a network device. In the rejections of the independent claims, the Examiner has combined the streaming system of Tillman with portions of McMahon teaching downloading content to a user. Altering Tillman to perform **downloading** of media content as recited in the independent claims changes the principle operation of Tillman. Streaming media content to a user typically involves sending media to a user in real time such that, for example, an hour program is sent to a user over a period of an hour. Conversely, downloading media to a user typically involves sending media to a user irrespective of the length of the content such that, for example, an hour program is sent to a user in a number of minutes or a number of hours. Even the background of Tillman discusses significant differences in **streaming**

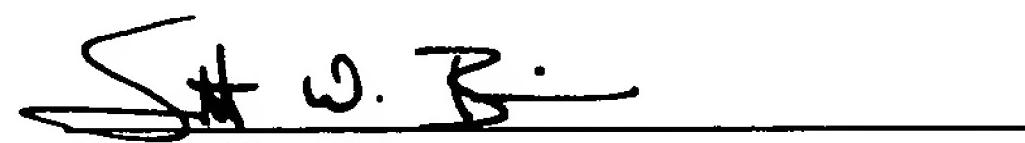
media to a user versus **downloading** media to a user. (See Col. 1, line 25 – Col. 2, line 26).

Altering Tillman to **download** media to a user rather than **streaming** media to a user changes the principle operation of Tillman. For at least this reason, it is improper to combine Tillman and McMahon. Accordingly, the proposed combination of Tillman and McMahon necessarily cannot render independent claims 1, 11, 18, and 21, or any claim that depends on claims 1, 11, 18, and 21, unpatentable.

III. Conclusion

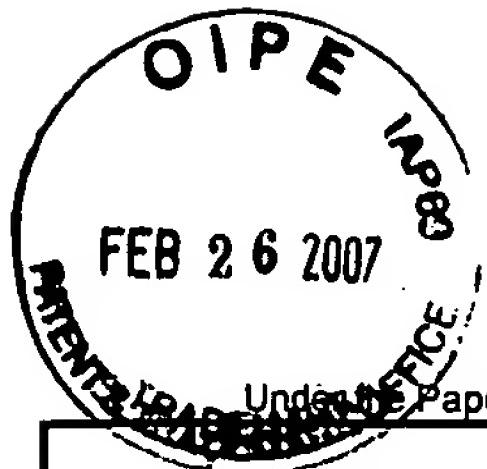
In view of the foregoing remarks, Applicants submit that the pending claims are in condition for allowance. Review of the final rejections is therefore respectfully requested.

Respectfully submitted,



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PTO/SB/33 (07-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional) 8285-469

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On February 26, 2007

Signature Scott W. Brim

Typed or printed

Name Scott W. Brim

Application Number

09/842,363

Filed

April 25, 2001

First Named Inventor Ahmad Ansari et al.

Art Unit

2623

Examiner

Raman, Usha

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The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five(5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is
enclosed. (Form PTO/SB/96)

attorney or agent of record.
Registration number 51,500.

attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____

Scott W. Brim

Signature

Scott W. Brim
Typed or Printed Name

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Telephone number

Note: Signatures of all inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*

*Total of 1 forms are submitted.

February 26, 2007
Date